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The illegal, the illicit and new geographies of uneven development.

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Abstract

There is a significant absence in the urban and regional development literature as to the significance of illegal activities in the economies of successful cities and regions. In response to this, this paper is focused around two sets of issues: first, the significance of illegality in the practices of the economies of 'successful' cities and regions in both global North and South, but with some

Introduction

There is widespread agreement that there has been a fundamental "global shift" in the macro-geography of the capitalist economy, exemplified by rise of BRIICs (Brazil, Russia, India, Indonesia, China) and, more generally, the Global South and so-called 'emerging economies', linked to the relative if not absolute decline in national industrial economies of the 'Global North'. Central to this process is the movement of capital – in both manufacturing and services activities - to selected locations in which conditions for profitable production are particularly favourable. As a result, in order better to grasp the processes of uneven and combined development that lie behind the shifting landscapes of capitalism and the 'new' New International Division of Labour we need to go beyond the national scale, to go beyond a conception of this as simply a national scale process. In contrast, we need to emphasise its urban and regionally differentiating effects within a multi-scalar process of uneven and combined capitalist development (Hudson, 2016a). seen in this way, growth in some places in the Global South and emerging economies is seen as linked to economic decline in many parts of the Global North, with deindustrialisation in 'old industrial regions'. In these regions both the original and replacement industries – often attracted there by a combination of generous state support and extensive labour reserves - left or simply closed down in the face of intensified competition (Hudson, 2000; 2016b). As a result of these linked changes in geographies of economic growth and decline, there is a pressing need to forge closer connections and deeper interaction in analyses of local and regional development between and within the Global North and South (Pike et al, 2014).

The dominant emphasis in the existing literature on the 'global shift' (for example, Dicken, 2011; Yeung and Coe, 2015) is upon the lower costs of production – notably labour costs - allied to generous state financial subsidies in selected locations in the (so-called) 'emerging economies' of the Global South, Central and Eastern Europe and Russia. In this, there is also an emphasis upon the

minimal but legal regulatory standards governing labour markets, working conditions, health and safety standards and so on as compared to much of the Global North. As such, there is a pre-occupation with the economic geographies of the legal, implicitly conceiving the economy as made up of legitimate activities performed and regulated in a series of legal markets within the jurisdictions of national states. Expressed slightly differently, the “norm” in capitalist economies is typically represented as economic actors behaving within markets according to the rules and regulations of the formal legal economy. Differences legal regulatory standards between territorial jurisdictions create the space in which capital can increase the rate of exploitation and profits (though the latter typically flow back to selected locations in the Global North and the accounts of the multi-national companies that control global production networks).

But in all this literature there is a particular and very significant silence about the role of illegality and its governance. The issue is not just that legal regulatory standards vary (so that what is legal in one jurisdiction is illegal in another) and that they are minimal in some places but that in many places – cities and regions in both Global South *and* North that are seen as economically successful - they are chronically and routinely breached in pursuit of profit within the mainstream ‘legal’ economy. Moreover, these breaches of the law are seen as licit, known and accepted as a part of normal business-as-usual. As a result, markets become structured in particular and varying ways, with a competitive advantage conferred on those who avoid legal regulation. This in turn raises the question of how economic activities and processes are governed and regulated in the context of illegality and of how national states relate to these processes. The failure to acknowledge the existence of chronic breaches of even low regulatory standards is a significant absence from existing literatures on global shift and changing multi-scalar processes and patterns of uneven and combined development, both in regional and urban studies and in economic geography more generally (see Hudson, 2018). In addition, there is a flourishing economy of illegal activities organised by illegal organisations (a variety of mafias and other criminal organisations) operating outside of the legal regulatory framework that has significant impacts on the trajectory of uneven and combined development, not least in relation to the flows between illegal and legal economies, but which again – with exceptions such as Chiodelli et al, 2017 - is notable by its absence from the regional development literature.

In response to this, and as a first step in seeking further to fill this void in the literature on regional studies and uneven development more generally, the remainder of this paper will be mainly focussed around two sets of issues: first, the significance of illegality seen as licit in the practices of the economies of ‘successful’ cities and regions in both North and South, but with some consideration to its role in ‘marginalised’ places. Secondly, the role of the state in relation to the growth of illegality, both in tolerating it within the ‘normal’ regulatory framework – and so helping create conditions in which the illegal is more generally seen as licit - and in creating specific ‘spaces of exception’ in which the normal rules are suspended and don’t apply. As a corollary, some attention will also be given to the ways in which economic activities are regulated in situations in which the state turns ‘blind eyes’ to illegality.

The significance of the licit/illegal in economic ‘success stories’ in the ‘legal’ economy

Rather than being an infrequent and marginal occurrence, illegal practices are common in and often integral to ‘successful’ regional and urban economies in both global North and South – defining success in terms of growth of output and profitability. They are rife in much of the Global South, especially parts of south east Asia, and in parts of post-Communist Central and Eastern Europe and Russia. In addition, they were also common in the ‘success stories’ of industrial districts in southern Europe (Hadjimichalis and Papamichos, 1990). However, it is important to emphasise that they were also far from unusual in the booming global cities and other regions of the North, in activities ranging from low level working in the consumer services, cleaning and so on, to high level activities in finance and business services as financialisation became the dominant process (for example, see Arrighi, 2007; 2010; Durand, 2017).

It is important to distinguish between two distinct types of illegal but licit activities in successful regional economies, with differing implications for regional development strategies and trajectories. First, activities that are legal but are performed by a variety of people who, for diverse reasons are not legally entitled to perform them. These are considered in the first sub-section below. Second, activities that are illegal but, for a variety of reasons, are socially sanctioned as acceptable and seen as licit and considered in the second, third and fourth sub-sections.

Illegal workers performing legal activities

Illegal workers (for example, under-age child workers, indentured labourers, or illegal migrants, often working under conditions of “modern slavery” in both the global South and North provide labour-power that is not legally purchased on formally regulated labour markets, or even purchased at all, so that they live and work outside the normal legal protections that are defined within national spaces of citizenship. Although not legally authorised to perform as waged workers, they are then put to work by the owners and managers of capital, carrying out a variety of tasks in activities that are legal and part of the mainstream economy, but with all that their illegal status implies about enhanced exploitation, with minimal wages, and degraded working conditions in “intensified workplace regimes” (Rogaly, 2008) , and so reduced costs of production and enhanced profits for capital (for example, see Bales, 1999; Blitz, 2018; Gatti, 2006; National Crime Agency, 2017). Clearly, the costs of acquiring labour-power can be radically reduced in places in which capital can recruit workers who have no legal status and so minimal bargaining power. Moreover, when such illegal migrants are employed as cheap domestic labour they become involved in lowering the costs of reproduction of the next generation of the indigenous population (for example see Merrill, 2011).

Furthermore, illegal labour provided via migrant workers can have a doubly downward effect on labour costs, altering the balance of class forces in the labour market. First, as is the case for migrant labour within legal systems of both intra-national (notably China in recent years) and international migrant labour flows (for example, to the USA from Mexico or to West Germany from Turkey in the 1960s or Africa to Italy in the 2000s), the costs of reproduction of such labour has already been displaced elsewhere in time and space (for example, see Merrill, 2011; Nadiruzzaman and Shewly, 2017). Second, and in addition however, illegal migrant labourers by definition lack citizenship and legal rights, and as a result they are particularly vulnerable to further exploitation and so provide considerable scope for capital to realise super-profits (Mingione, 1999; Merrill, 2011). In addition, such labourers serve to displace members of the indigenous population in the labour market and so

further help create labour reserves and a reserve army of labour, intensifying further downward pressure on wages and thereby enhancing the rates of exploitation, profit and accumulation more generally.

In some regions, migrant workers who initially had legal status may lose their jobs and so become illegal migrants as their work permits cease to be valid. Often, in these circumstances, they are unable to return to their country of origin because of indebtedness incurred in fees paid to agents in order to become migrants in the first place. As a result, they become particularly vulnerable to recruitment as illegal labourers with a very precarious and risky existence. In others instances, especially those involving agency contract workers, agencies deliberately arrange for people to become illegal immigrants in order that they can be employed on inferior conditions and lower wages (for example, see SOMO, 2009).

Illegality in the core of the commodity production process in economically 'successful' regions

There are many illegal activities that are seen as licit in many economically successful regional and national economies as a result of custom and practice in the wider 'allegedly' legal mainstream economy. At one end of a spectrum, these relate to evidence of widespread tolerance petty pilfering from paid work in the formal legal economy (for example, see Ditton, 1977; Hobbs, 1988). More significantly in relation to processes of capital accumulation, there is a plethora of evidence of a wide range of illegal business practices - *inter alia*, fraud, embezzlement, theft, bribery, commission kickbacks, insider trading, market rigging, false trade invoicing, transfer mispricing, making illicit political donations and tax evasion - in mainstream economies in many cities and regions (for example, see Durand, 2017, 7-18; Elison, 2018). This is particularly important in emphasising the hybrid character of economic activities, as the illegal becomes central to the constitution of the legal, the two genetically intertwined in the DNA of capitalist economic practices.

There are numerous examples of regional economies dependent upon the illegal mining of key minerals (for example, see Erman, 2007; Nordbrand and Bolme, 2007), illegality in forestry (Murphy, 2012), illegal working conditions in agriculture (for example, see Kiezebrink, 2017) and illegal production of manufactured goods that then compete in a range of mainstream legal markets. While the commodities themselves may be legal, the conditions under which they are produced are not. Thus, while legitimate commodities may be produced by workers who are legally entitled to employment, there are many instances of regions in which people work in conditions that violate labour laws and flaunt health and safety legislation, unprotected against dangerous chemicals or machinery – the disaster at Bhopal is simply one of many examples (see Hudson, 2010).

Furthermore, there are numerous examples of regions in which labour-power that is legally purchased on the labour market is illegally employed in a variety of ways – for example as a result of companies withholding wages and workers being forced to work beyond the legal limit for overtime, violating both national legislation and international agreements such as the ILO's Hours of Work Convention, thereby increasing the production of absolute surplus-value. Often workers have little choice but to work excessive and illegal overtime because their legal basic wage is below the level of a 'living wage' or because they are coerced to work 'voluntary' unpaid overtime, often under the threat of losing their jobs, to meet demanding production targets that otherwise cannot be met (for example, see Nordbrand and de Haan, 2009; Padmanabhan, 2012). Many workers in the new industrial zones of south east Asia are migrants from poor rural areas, often young and female, with

no previous experience of factory work, working to send remittances back to their families and home areas. As such they are particularly vulnerable and susceptible to pressure from managers and owners to work illegally.

Such employment practices are often facilitated by the absence of trades unions or the presence of unions that are effectively under state control and/or the influence of employers. Such practices are rife. They are widespread in China, parts of India, Myanmar, and in regions over much of the rest of south east Asia, in central, eastern and parts of southern Europe, in a wide range of sectors, both those commonly represented as “high tech” and “clean” and those seen as “low tech”, “dirty” and less desirable (for example, see Barbu et al, 2013; Buerk, 2006; Chan et al, 2008; Frandsen et al, 2010; Gregson et al, 2012; Lan, 2014; Mackay, 2004; Ferus-Comelo and Pöyhönen, 2011; Nordbrand, 2009; Pöyhönen and Wan, 2011; SACOM, 2011). Major retailing chains and Original Equipment Manufacturing multinationals – in short, the key brand owners - that out-source production may have Corporate Social Responsibility policies in place that prescribe legal working practices and define required standards in the workplace. However, these typically do not extend beyond first tier suppliers and frequently come into conflict with competitive pressures at the point of production to cut costs. As a result local producers seeking to create market share on their own behalf routinely breach regulatory standards while local managers of sub-contractors ignore the requirement to comply with the CSR policies and deliberately falsify employment records to disguise illegal overtime and underpayment of wages (Sum and Ngai, 2005; Ruwanpura and Wrigley, 2010). Furthermore, “...the pressures of keeping prices competitively low encouraged manufacturers to enter into sub-contracting relationships with smaller workshops on the edge of illegality” (Tokatli et al, 2011, 1206). Illegal practices are seen as licit by companies in contexts in which workers are in a weak position to contest this (which is not to say they aren’t contested in some times and places). Companies see them as licit – or if illicit, economically necessary - because breaching legal limits is seen as necessary to remain competitive and win or retain contracts. Commodities produced under these circumstances can then compete with and undercut legitimately produced commodities, reducing the market share and profits of those producers operating legally and conforming to the requirements of labour legislation. This, however, creates systemic pressures for all companies to seek to produce in these ways.

Counterfeiting and the theft of IPR

Counterfeiting is another illegal practice that is widespread in some parts of the globalising economy, underpinning corporate business models and so seen there as licit. An increasing number and range of products have become counterfeited and illegally copied, with counterfeited goods accounting for an estimated 7% of global trade, as “today nearly every consumer and industrial product is subject to counterfeiting” (Chaudhry and Zimmerman, 2010, 26, citing the OECD, 2007). “Fakes saturate contemporary markets and product counterfeiting [has become] more sophisticated and more global” (Gilmore and Pine, 2007, 7). In part this saturation has come about because of the diffusion of sophisticated technological innovations in production methods enabling the proliferation of counterfeit versions of luxury goods, manufactured by firms in China and other emerging economies: in the ‘world factory’ of China, “[a]lmost any commodity can be knocked off and reproduced” (Pang, 2008, 120). The growth in production of sophisticated fakes and knock-offs is leading to the proliferation of items “that are, at least to an untrained eye, indistinguishable from the originals” (Tokatli, 2008, 26), with consequent problems for their

purchasers in terms of quality assurance and provenance. When these relate to drugs and pharmaceuticals, they can literally be life-and-death issues. There is a complex dynamic between the market for the genuine article and the market for the counterfeit for while the counterfeit has its own market it also exploits both the marketing and the residual market of the genuine brand (Pang, 2008, 126). In an era of increased concern with “authenticity” and faced with this blurring of the boundaries between the genuine and the fake, Fan (2014) suggests that the consumer turned ‘producer’ subject acts as a self-enlisted regulatory agent who works to perpetuate the value of the brand and the brand’s design-intensive value régime.

Counterfeiting thus encompasses both the production of commodities for final (consumer) markets and the production of components and parts that form part of the preceding circuit of commodity production. There is a distinct macro-geography to the production of counterfeits, with particular countries in which such practices are widely tolerated as part of ‘customary illegality’. China alone is the origin of two thirds of counterfeit production (Glenny, 2008; Phillips, 2005). Russia and some other south Asian and Latin American countries are also major sources of counterfeit production (Chaudhry and Zimmerman, 2010; Pang, 2008). Within these national economies, such activity is concentrated in particular cities and regions that have become centres of economic growth as a result. It is likely that the extent of counterfeit production has increased subsequent to 2007 as competitive pressures intensified in the context of global recession.

As well as the production of illegal copies of branded goods, there is the widespread production of ‘knock offs’, that is goods that may appear to be the same as branded products, with only very slight and barely noticeable visual differences in appearance, but enough of a difference that as a result they do not abuse the legally enforceable IPR of any brand owner or manufacturer. In all these cases, counterfeiting and the production of knock offs, goods may be produced by workers who are legitimate and legal (Phillips, 2005). However, in some regions they may also be produced by illegal workers, resulting in products that are indistinguishable from the authentic brand, “a sort of true fake” (Saviano, 2008, 39) being produced at very low labour cost. In addition, illegally produced goods may be packed and distributed by legal businesses, often specialised logistics companies, further blurring of the boundary between legal and illegal.

As well as the counterfeiting of goods, in some cases, counterfeiting can extend to the retailing establishments that sell commodities, the design of the stores and their mode of retail operation, and not simply the commodities themselves that may in fact be genuine originals (Fan, 2014.). In recent years, there has been a growth in markets in the European Union specialising in the sale of illegally imported counterfeited consumer goods from China, including Cheetham Hill, in Manchester; Fuenlabrada, near Madrid; Prato, in the Arno valley near Florence; Neuss, near Dusseldorf; and Wolka Kosowska, between Cracow and Warsaw in Poland (O’Neill, 2017). There are also notorious examples of more established markets in which specifically counterfeit goods are openly traded, bought and sold at a fraction of the price of the genuine branded article, including Xiushui Market in Beijing and Harco Glodok in Jakarta (Chaudhry and Zimmerman, 2010, 42-43) as well as street markets in major global cities such as London, Los Angeles, New York and Paris. Such markets become foci of economic growth while enabling consumers to acquire the symbolic value and prestige of premium brands at a fraction of the price of the genuine article, undercutting the latter in the market while to all intents and purposes appearing to be that genuine article. There is a complex dynamic between the market for the genuine article and the market for the counterfeit for while the counterfeit has its own

market it also exploits both the marketing and the residual market of the genuine brand (Pang, 2008, 126).

Financial corruption and the success of global cities

Global cities such as London and New York, and in particular their financial districts, have typically been seen as “success stories” in the globalising economy. However, these are also places in which corruption has become rife. While fraud and corruption have ever been the companions of capitalism, with the emergence of financialisation, with the rise to dominance of the finance sector over the last four decades they have become pervasive as a result of the “deep empathy on the part of the legal system with the competitive pressure on financial institutions to break to law in order to make a profit” (Streek, 2017, 31). Indeed. “[f]inance’ is an industry where innovation is hard to distinguish from rule-bending or rule-breaking; where the payoffs from semi-legal and illegal activities are particularly high; where the gradient in expertise and pay between firms and regulatory authorities is extreme; where revolving doors between the two offer unending possibilities for subtle and not-so-subtle corruption” (Streek, 2017, 70). He continues:” After Enron and World Com, it was observed that fraud and corruption had reached all-time high in the US economy. But what came to light after 2008 beat everything”. This included: rating agencies being paid by the producers of toxic securities to award them top grades; insider trading on a large scale; offshore shadow banking, money laundering and assistance in large scale tax evasion as the normal business of the biggest banks with the best addresses; the sale to unsuspecting customers of securities constructed so that other customers could bet against them; and the leading banks world-wide fraudulently fixing interest rates and the price of gold. These were not activities carried out in murky locations of the margins of the economy, or in tax havens on exotic tropical islands, but in the financial districts of major world cities, including London and New York in the heart of the capitalist economy where corruption is endemic, tolerated if not actually encouraged by national states (Christensen, 2011; Garcia-Bernardo et al., 2017; Norfield, 2017; Penna and O’Brien, 2017; Unger and Rawlings, 2008, 348-349).

Illegal activities considered to be licit as a result of custom and practice in the ‘informal economy’

There is an important distinction to be made between those regions in which illegal activities considered to be licit are seen as underpinning growth in the mainstream economy and those in economically marginal(ised) regions. Illegal activities and practices are seen as licit, pivotal elements of alternative ‘survival strategies’ in what has long been known as the ‘informal economy’ and present in cities and regions in both global North and South (for example, see Hadjimichalis and Vaiou, 1990). As Narotzky and Besnier (2014, S6) put it, “... many livelihood resources are produced and circulate outside or on the margins of market practices. These follow unpredictable paths along provisioning circuits, alternating between commoditized and non-commoditized valuation In times of crisis, people operate with coping strategies that enable them to locate increasingly elusive resources. These strategies may include relations of trust and care, economies of affect, networks of reciprocity encompassing both tangible and intangible resources, and material and emotional transfers that are supported by moral obligations”. Given that capitalist development is inherently crisis-prone, such strategies are often a chronic feature as people seek to grapple with the consequences of crises on their livelihood, although varying in their significance in different times and places.

While much of the literature refers to informal economies as endemic over many areas of the global South, they are by no means confined there. They have become common as an essential component of household survival strategies in much of the former state socialist economies of central and eastern Europe (Smith et al, 2008). In parts of deindustrialised and marginalised regions in the Global North there may be acceptance of practices of selling stolen goods in informal markets; or of illegal and untaxed casual work in agriculture, in retailing or on building sites, resulting in small scale tax avoidance by working 'off the cards' or failing to declare casual earned income (for example, Evans et al, 2006). These are regions that, as a result of processes of globalisation and deindustrialisation, have been abandoned by capital, or in which the mainstream capitalist economy is in crisis or is operating in such a way as to create a crisis of social reproduction for many, in some cases as in southern Europe compounded by the effects of State austerity policies (for example, see Hadjimichalis, 2017). This has led to the normalisation of criminal activity in many of these regions, expanding to include drug dealing, human trafficking and modern slavery, extortion and protection rackets, with a growth in violence as the ultimate arbiter of disputes.

In many regions of the global South, 'informal economies' spring up to sustain life on marginal terms in low-cost accommodation in shacks, shanty towns and favelas. The unemployed eke out a living in whatever ways they can in the urban slums, in the process defining a way and standard of life and, "even more importantly for capital, a cost of living that defines a lower bound for wages in the formal sector" (Harvey, 2014, 175). Thus, in a range of regions that have either never been part of mainstream capitalist economies, or once were but have become marginal to, or totally excluded from, the dominant circuits of capital, engaging in illegal economic activities can be seen as licit, as a necessary and socially acceptable element in strategies of survival and 'getting by' – but as Harvey points out, with important effects of the wider labour market in the formal and legal economy.

Illegal economies and their links to the legal

As well endemic illegal activity in formal and (allegedly) legal mainstream economies being regarded as licit, there are extensive illegal economies (involving, *inter alia*, robbery and theft, bribery and extortion, narcotics and people trafficking, illegal trade in nuclear materials and illegal arms dealing) organised by a variety of criminal organisations (such as the Cosa Nostra, the 'Ngrangdeta, the Camorra, the Chinese Triads, the Japanese Yakuza and the Russian Mafias). Since the activities are illegally, those involved in carrying them out are by definition working illegally and illicitly (in contrast to informal economies' in which illegal work is seen as licit). As a result, a variety of illegal activities underpin – indeed constitute - urban and regional economies dominated by these various illegal organisations, often with the collusion of elements of the relevant national states. In addition, however, their influence has spread more widely as they have internationalised their operations and diversified into a range of legal activities as 'dirty money' has been cleansed. The activities of these organisations are undoubtedly of major significance. However, since these are based in illegal economies, then by definition it is impossible to know their precise magnitude. As Castells 2000, 172) puts it, "[e]stimates of profits and financial flows in the criminal economy vary wildly and are not fully reliable" but one estimate put the profits from illegal activities at US\$750 billion a year. While some money from illegal activities is used to support consumption and livelihoods in marginalised places – often in circumstances in which other sources of money are absent – and some remains as capital re-invested in the illegal economy, a much greater proportion finds its way

into the circuits of the legal economy as legitimate money capital, invested in legal activities in mainstream markets. An estimated minimum of two thirds of the money earned in the illegal economy finds its way into the legal economy (Schneider and Enster, 2000) and, as such, these flows have influenced patterns and processes of uneven and combined development at multiple spatial scale and the overall trajectory of the accumulation process.

Governance and regulation of the illegal: implicating the state

The widespread acceptance and toleration of illegal behaviour in the economy raises important questions about governance, regulation and the role of national states, both in terms of state collusion with capitalist interests and the relationship between state and non-state actors as states abrogate responsibility so that other regulatory mechanisms dominate, such as those of various mafias. There is no doubt that in many instances national states simply ignore their own laws, formal rules and regulations, turning “blind eyes” to illegal practices, and colluding with capital. They do so for a variety of reasons: for personal gain and from individual self-interest; or because they see this as necessary to retain investment and jobs in already ‘successful’ regional and urban economies and/or attract them to economically lagging regions in which they wish to promote more equitable forms of economic and social development; or because of wider societal concerns with the survival strategies of marginalised groups. But national states do more than simply turn “blind eyes” to illegality and the chronic transgression of their own laws and regulatory requirements in their own territories. In addition, they create specific spaces beyond and/or outside ‘normal’ regulatory arrangements, not simply ignoring ‘normal’ regulatory arrangements but explicitly creating spaces within their national boundaries in which normal territorial jurisdiction is abolished. The creation of such ‘spaces of exception’ is a result of acts of state policy to create spaces in which state authority is either suspended or significantly modified and weakened, a reflection of dominant class interests and the asymmetric power relations between multinational capital, national states and local social forces in an evolving process of uneven and combined development.

Export processing zones

Export processing zones have become commonplace in many regions of the globalising economy as national states seek to entice mobile multinational capital to invest in their territory and stimulate economic growth by a combination of enhanced financial incentives and lowered labour market and other regulatory standards. By 2007 there were some 3,500 EPZs in 130 countries, employing 66 million people, of whom 56 million were in Asia (Dicken, 2011, 191). In these zones, the already typically low national regulatory standards are either lowered further or abolished completely. Trades unions are either further emasculated or banned completely (as for example in the “no union no strike” Export Production Zones of the Philippines). While there may be employment creation, often on a significant scale, the jobs are minimally paid, often precarious and working conditions are often unhealthy and unsafe. This in turn has a wider disciplining effect on labour and corporate practice beyond the boundaries of the zones and, even more significantly, the trajectory of the accumulation process more generally.

Tax havens: cleansing ‘dirty money’ from illegal economies

Money laundering and the flow of money from the illegal economy to become money capital in the legal economy has become of particular importance in relation to capital accumulation. This cross-over between the circuits of the illegal and legal is of great significance, and the inflow of money capital contributes both to enhancing the competitive position of those who own it and to the overall expanded reproduction of capital and its geography. At the same time, money that remains within the circuits of illegal activity can finance activities that compete with those that are legally compliant. Furthermore, because these links and activities around circuits of capital necessarily are performed in specific places, money from illegal activities invested in the legal mainstream raises the question of the places and spaces in which illegally acquired profits from the criminal economy become 'clean' money.

This cleansing typically occurs in one or two types of spaces. First, in legal jurisdictions, notably tax havens, territorially defined legal jurisdictions originally designed to enable legal (though what many people would see as ethically and morally dubious and so illicit) activities of tax avoidance. They are to be found both offshore in places such as the Bahamas, Bermuda, the Cayman Islands and Jersey and onshore in the heart of the globalising economy in cities such as London, New York and Singapore, tolerated if not actually encouraged by national states (Christensen, 2011; Garcia-Bernardo et al., 2017; Norfield, 2017; Penna and O'Brien, 2017; Unger and Rawlings, 2008, 348-349). Because tax havens provide an operational base that can be used by legal and financial professionals and their corporate clients, they have subsequently become the sites of many of the major financial transactions of the global economy. Major multinationals and sovereign wealth funds routinely channel massive flows of legal money capital through them. As a result, they form significant foci of growth for urban, regional and national economies, with their significance further enhanced as a result of neoliberal financialisation. These activities also generate considerable employment. Labour markets dominated by such activities, notably in 'global cities', are characterised by a juxtaposition of well-paid jobs for financial services professionals alongside the poorly paid and precarious jobs of those servicing the affluent.

In addition to this, however, these "secrecy spaces" (Christensen and Hampton, 1999; Murphy, 2017) have also come to play another critical role in the global capitalist economy, providing a crucial interface between the circuits of legal and illegal economies (Hampton, 1996), one that is permissive of illegal flows of money. As a result of their existence, transactions and flows that elsewhere would be deemed illegal remain invisible and are deemed to be licit. They further exemplify the way in which illegal practices have become regarded as a customary and licit feature of the mainstream economy which is constituted through conjoined legal and illegal practices.

As a result, profits generated from illegal activity, within both formally 'legal' economies and criminal illegal economies - from, *inter alia*, fraud, embezzlement, theft, bribery, commission kickbacks, narcotics and people trafficking, illegal arms dealing, counterfeiting, insider trading, market rigging, false trade invoicing, transfer mispricing, making illicit political donations and tax evasion - are routinely sanitised and recycled into the circuits of the legal via secretive instruments intended for legal tax avoidance. Tax havens encourage and enable grand scale corruption by providing an operational base from which legal and financial professionals and their clients can exploit gaps in tax legislation and regulation. Whether intentionally or not, the very complexity of legal tax avoidance schemes creates space for illegal practices. Elaborate schemes are devised to "weave dirty money" (Christensen, 2011, 183) into commercial transactions and to disguise the proceeds of crime and tax evasion using complex multi-jurisdictional structures that exploit the asymmetries among regulatory spaces. Precisely because they involve activities on the fringes of or beyond the boundaries of formal

legal regulation, such financial activities require a high degree of trust to enable them to function successfully in tax havens that form key nodes in global financial networks (Hudson, 1998).

Revealingly, national states and multilateral agencies consistently downplay concerns about “dirty money” and money laundering except, significantly, in relation to drugs and terrorism, which form only a small proportion of illegal cross-border flows (Baker, 2005, 269). This discursive selectivity is highly significant, symptomatic of a tacit recognition of the prevalence of illegality, the systematic and large-scale laundering of “dirty money”. Money laundering is accepted, albeit tacitly, as a licit activity, recognising the intimate relationships between legal and illegal activities in the constitution of capitalist economies and the pivotal role of tax havens as ‘spaces of exception’ in which these financial flows and transfers take place (Christensen, 2011, 181-184; Murphy, 2017). The servicing of illegal economic activities is focussed on these tax havens precisely because of the lack of transparency that surrounds transactions carried out in and through them, either because of banking secrecy laws or through *de facto* judicial arrangements and banking practices.

Alternative spaces for cleansing ‘dirty money’

A second type of space in which dirty money is cleansed lacks the formal status of tax havens. These spaces are found in jurisdictions in which local circumstances and institutions enable particular illegal activities to become licit. Such spaces are disproportionately concentrated in the (so-called) transitional and developing economies but are by no means limited to them as neoliberal economic policies and practices have sharpened socio-spatial inequalities and created fertile breeding grounds for illegality in the core areas of capitalism as well as in its peripheries. This often involves the entanglement of elements of the legal state and its officials in illegal activities, either directly or indirectly, sanctioning them by turning a ‘blind eye’ to such illegal practices, for personal gain or because of a desire to encourage economic growth in their area or simply to enable people to subsist in a situation in which there seems no alternative to engagement with the illegal (for example, see CIVIDEP, 2009; Kynge, 2009; Pöyhönen and Simola, 2007; Ranieri, 2017). Well-known examples include the spaces controlled by the various Italian mafias, the Chinese Triads, the Japanese Yakuza and the Russian Mafia (for example, see Allum and Allum, 2008; Castells, 2000; Glenny, 2008; Hill, 2005; Paoli, 2005; Saviano, 2008). All these organisations are involved in illegal flows of labour, the illegal trade of people and things, the illegal production of goods and the laundering of the resultant money by various mechanisms into the mainstream economy for private gain. In the absence of formal state regulation, these activities are governed and regulated by a varying mixture of mechanisms ranging from kinship and friendship relations, trust and tolerance to bribery, extortion, physical force, violence and, in extremis, death (threatened or actual), sometimes with the connivance of state officials at the same time as others are seeking to tackle criminality (for example, see Gambetta, 2011; Scambary, 2017; Stephenson, 2015; Stephenson and Zakharo, 2017). One consequence of systematically turning a blind eye to illegal activities, however, is a loss – often considerable – of revenue to the state that potentially could be used for progressive developmental purposes.

Conclusions

Clearly there is a very diverse range of cities and regions in both Global North and South in which activities and commodities that are illegal, for varying reasons, are as seen as licit, though not necessarily by all members of a society, as the revelations in the Panama and Paradise papers have made clear. Nonetheless, (il)legal and (il)licit activities are in practice woven together, entangled in complex ways to *constitute* capitalist economies and help shape trajectories of uneven and combined development. Illegal activities are woven into the texture of the ordinary economy and ordinary social life. The progressive embeddedness of the illegal economy into the “normal”(-ized) economy emphasises how illegality is integral to, enmeshed within, and constitutive of the mainstream economy in many cities and regions within the global capitalist economy. This is a conclusion that has far-reaching implications for the ways in which processes of uneven and combined regional development should be understood.

Not least, this is the case in relation to theorising the relationship between national states and economies and regional and urban development processes. This goes beyond national states routinely ignoring their own legislative and regulatory requirements for the transaction of economic activity – significant though. that is. For the creation by national states of specific legal spaces for non-citizens – such as tax havens and export-processing zones, or spaces in which drug testing can take place (Prasad, 2009) – “amounts to the creation of ‘islands’ within the generality of national law” (Gerstenberger, 2012, 78) within which states accept, even encourage, the possibility of conducting business beyond the reach of national taxes, banking and financial legislation and labour market and workplace regulations in spaces in which the boundaries between the legal and illegal can be blurred, or even wholly abolished. Since by definition such otherwise illegal activities are located in ‘spaces of exception’ beyond the regulatory reach of national states and international organisations, their governance and regulation necessarily depend upon a range of other social mechanisms, working around or simply ignoring legal regulation. They are not unregulated, but rather differently regulated in quite specific ways. This regulation can be facilitated by the ‘blind eyes’ of the state, with states at varying spatial scales ignoring or condoning such activities and regulatory practices for a variety of reasons, ranging from individual self-interest to wider societal concerns with the survival strategies of marginalised groups or more equitable forms of economic and social development. Alternatively, in circumstances of weak or non-existent formal state governance and regulatory mechanisms (for example, in so-called ‘failed states’), illegal organisations may fill the resultant vacuum and be at least tolerated as licit. The key issue here is the way in which illegality and its associated systems of governance and regulation, in the absence of any alternative, is routinely ignored, condoned or simply accepted so that the illegal and its associated governance processes become seen as licit and extend their influence beyond their initial formative spaces and influence broader patterns and processes of uneven and combined regional and urban development.

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